

BY FAX

October 8, 2004

Mr. Art Williams
Executive Director
Louisville Metro Air Pollution Control District
850 Barret Avenue
Louisville, KY 40204-1745

RE: Informal Comments on STAR Proposed Regulations

Dear Mr. Williams:

On behalf of Zeon Chemicals L.P., I appreciate the opportunity to offer comments on the proposed Strategic Toxic Air Reduction (STAR) proposed regulations. We have cooperated with the extensive review conducted by fellow members of the Greater Louisville Inc. (GLI) Air Subcommittee. We concur with GLI's comments on the STAR program and by reference incorporate them into these comments. We will let GLI's submittal speak to the many detailed issues we have with the proposed regulations. Herein, we will comment on certain major concerns, as we see them, or specific issues that could have major ramifications on Zeon.

As you know, we have participated in the West Jefferson County Community Task Force since its inception. When that group's draft Risk Assessment of the west Louisville ambient air monitoring data was issued, Zeon promptly responded to Mayor Abramson's call to us, as a major 1,3-butadiene (BD) emitter, to significantly reduce our ongoing releases. Substantial reductions of BD and other chemicals of potential concern had preceded this effort over the previous 12 years of our ownership of local synthetic rubber manufacturing facilities. These past efforts have been openly documented to you and the public in several forums. We are proud of our emission reduction successes and remain committed to all future reasonable reduction opportunities. We likewise appreciate the need for reasonable district-wide air toxic regulations and will continue to work directly---and through GLI---with APCD to that end.

Process, Timing & Other Sources

Our principal concern has been with the development process of these regulations. Comments have been made that there was stakeholder involvement in the regulations' development. To our knowledge, that is not so. Industrial members **did** participate in a risk management plan prior to the issuance of the Risk Assessment report. That plan envisioned a multi-pronged effort to reduce emissions of air toxics, only one of which was new regulations. Unfortunately, other than the BD-emitters early reductions, all efforts in the past year have been kept within APCD in assembling what became the STAR package. The

regulated community and the public need ample opportunity to participate in the generation of this important document.

Our second major concern is with the timing of the STAR process. It understandably took APCD nearly a year to research and assemble the STAR regulations. It is a huge package. But now we have been given a mere three weeks to informally review the proposed regulations. It has been stated that APCD will add/change/delete the regulations, as appropriate, in one week and will then immediately proceed to formal proposal...with adoption in as little as one month. This is a preposterous timeline and seems to be only driven by someone having set the goal of the air toxics regulations becoming effective by January 2005.

Industry representatives who have complained to officials about the timing and limited involvement in the process have been told that we should be satisfied that we are getting "two bites at the apple," presumably meaning that we have both an informal and a formal period to comment. We are not satisfied and this is not adequate, paced, comprehensive, stakeholder involvement in so significant of a program.

In our view, the APCD should now send the STAR package into a negotiated rulemaking process with all major stakeholders representatives fully participating. The multi-stakeholder SIP Plan of the early 1990's, which brought about the fair implementation of the mandated 15% VOC emission reduction, was enormously successfully and should serve as a model for further development of this air toxics regulatory development process.

Our last general comment goes to the equity of the STAR program. Where is the equity in burdening industry with these requirements when the program lets mobile and off-road vehicles, gas stations, dry cleaners and perhaps other major sources of known air toxics off the hook for an indefinite period? Many of these sources are in and among residential areas, whereas many industrial sources have non-residential buffer areas that surround them.

Major Specific Concerns

We have several concerns due to their harsh impact on Zeon:

There is no de minimus exemption for having to model toxic emissions from minor or insignificant sources. Even minor lab hood vents would be brought into the program.

- **Compounded unreality of predicted risk. Several aspects of the proposed regulations take the already conservative one-in-a-million cancer risk reference values and apply them in inappropriate ways.** For instance, each plant emission point's maximum receptor concentration (determined by modeling) is compared to a risk limit. Then, all permutations of emission points and pollutants' individual maximum concentrations are summed to get a plant-wide risk level that is compared to a slightly higher allowed risk limit. But the summing of risk levels creates an

artificially high value that assumes maximum impacts occur at the same receptor point at the same time. This is impossibility and generates an unusually high, predicted cumulative risk level.

- **“Ambient Air” redefined to include air inside plant boundaries.** Risk levels in modeling could then be applied inside the plant or at least at the fenceline of a neighboring industrial facility, despite there being no public exposure. Severe controls could be required in an area where OSHA standards should prevail, not long-term public risk levels.
- **“Use of a material” is added to the definition of Process.** Any change in any material, no matter how slight, will be considered a modification. This significantly increases the potential for permit modifications and new ambient concentrations determinations for toxic materials, all of which could substantially delay even minor raw material changes. Also, toxicity modeling is triggered for up to ~200 chemicals if any modification is sought.
- **Ignores pending federal Residual Risk MACT developments.** Much of our Kentucky Plant will be soon subject to new federal toxicity reduction regulations. There is no acknowledgement of, coordination with, or exemption for these significant and economically sensitive developments.
- **Adds potentially burdensome new local LDAR requirements** We have worked our way into a very low leak rate for all regulated components (flanges, valves, etc.). There is no acknowledgement of, coordination with, or exemption for these significant and economically sensitive developments.

Should you care to discuss any of these matters, you may call me at 775-7719.

Sincerely,

Thomas R. Herman, P.E.
Corporate Environmental Manager
Zeon Chemicals L.P.